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APR 02 2004

OFFICE OF PETITIONS

In re Application of :
Redd and Baum : DECISION REFUSING STATUS
Application No. 10/627,393 : UNDER 37 CFR 1.47(a)
Filed: 25 July, 2003 :
Atty Docket No. SF005C :

This is in response to the renewed petition filed by facsimile under 37 CFR 1.47(a) on 10 March, 2004.

The petition is again **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor.

FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.

Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 25 July, 2003, without an executed oath or declaration.

Accordingly, on 29 October, 2003, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. In response, on 17 November, 2003, petitioners filed a declaration naming Jarrett L. Redd and Daniel R. Baum as joint inventors, signed by joint inventor Redd, and the late-filing surcharge.

Accordingly, on 29 December, 2003, Initial Patent Examination Division mailed an additional Notice to Filing Missing Parts requiring the signature of joint inventor Baum on the declaration, and requiring a new oath or declaration containing the residence and mailing address of each inventor. On 14 January, 2004, a petition under 37 CFR 1.47(a) was filed. On 8 March, 2004, the petition was dismissed.

In response, the present renewed petition was filed on 10 March, 2004. Petitioners state that joint inventor Baum refuses to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of \$130 or \$65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (2).

In regards to item (2), petitioners have not presented an oath or declaration that contains the residence and mailing address of non-signing inventor Baum. The oath or declaration must identify the mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.¹ Petitioners **must** submit a new oath or declaration in compliance with 37 CFR 1.63 and 1.67, identifying the residence and mailing address of both the signing and the non-signing inventors, signed by all of the signing inventors on behalf of themselves and the non-signing inventor.

In accepting the petition filed on 10 March, 2004, the Office is construing counsel's statement to mean that counsel has first-hand knowledge that the application papers were sent to the last known address of the non-signing inventor. Petitioners **must** inform the Office if this is not a correct statement.

¹37 CFR 1.63(c).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
 Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
 2011 South Clark Place
 Customer Window
 Crystal Plaza 2, Lobby, Room 1B03
 Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.


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Office of Petitions